

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Stephen L. Davis, Sr.)
Dist. 10, Map 16, Control Map 16, Parcel 6.00,) Blount County
S.I. 000)
Farm Property)
Tax Year 2005)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$588,800	\$187,500	\$776,300	\$194,075

This appeal was brought by the Blount County Assessor of Property, Mike Morton. The administrative judge conducted a hearing in this matter on February 28, 2006 in Knoxville, Tennessee. The taxpayer was represented by Martha S.L. Black, Esq. The assessor of property represented himself and was assisted by staff member Barry Mathes.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a 51.67 acre tract located at 3346 Rankin Ferry Loop in Louisville, Tennessee owned by Stephen L. Davis, Sr. Subject tract was originally part of a 65.08 acre tract purchased on January 31, 2000 by Stephen L. Davis, Sr. and Ronald L. Davis, Sr. Subject property began receiving preferential assessment under the greenbelt program effective January 1, 2001.

Subject property stayed in greenbelt until the 2005 tax year. In October of 2004, Stephen L. Davis, Sr. and Ronald L. Davis, Sr. recorded quit claim deeds effectively severing their joint ownership. Stephen L. Davis retained sole ownership of 51.67 acres and Ronald L. Davis became sole owner of the remaining 13.41 acres.

The assessor took the position that both property owners needed to refile greenbelt applications pursuant to Tenn. Code Ann. § 67-5-1005(a)(1) which will be quoted and discussed below. The taxpayer in this appeal did not refile by March 1, 2005. Consequently, the assessor removed subject property from the greenbelt program and rollback taxes were assessed.

The taxpayer appealed to the Blount County Board of Equalization. On June 14, 2007, the taxpayer filed a new greenbelt application with the assessor of property. On June 29, 2005, the Blount County Board of Equalization issued a decision reinstating subject property in the greenbelt program and setting aside the rollback taxes issued on March 24, 2005 for tax years 2002, 2003 and 2004.

On August 3, 2005, the assessor of property filed an appeal with the State Board of Equalization.¹ The assessor concisely summarized the basis for his appeal in response to question #16 as follows:

The Blount County Property Assessor's Office is appealing the County Board decision to the Administrative Judge based upon the following two reasons:

- (1) The property in 2004 had joint ownership and the parties in October of 2004 chose to dissolve their partnership, split the property and become fee simple owners thereby constituting an ownership change.
- (2) The owner of this property was properly notified by the Property Assessor's Office in December of 2004 and mailed a final notice in February of 2005, that he needed to complete a new Greenbelt form and get approval by March 1, 2005. The owner never responded and the Assessor's office requests that the Administrative Judge require the owner to pay the 3 years rollback taxes issued on March 24, 2005 and to remove Greenbelt status on this property for the 2005 year.

The taxpayer contended that it was not required to file a new greenbelt application under Tenn. Code Ann. § 67-5-1005(a)(1) because he was not a "new owner" within the meaning of the statute. Alternatively, the taxpayer asserted that even if he is property classified as a "new owner" under the statute, he complied with the statute by appealing to the Blount County Board of Equalization and filing a new greenbelt application.

Tennessee Code Annotated Section 67-5-1005(a)(1) provides as follows:

Any owner of land may apply for its classification as agricultural by filing a written application with the assessor of property by March 1 of the first year for which the classification is sought. Reapplication thereafter is not required so long as the ownership as of the assessment date remains unchanged. New owners of the land who desire to continue the previous classification must apply with the assessor by March 1 in the year following transfer of ownership. *New owners may establish eligibility after March 1 only by appeal pursuant to parts 14 and 15 of this chapter, duly filed after notice of the assessment change is sent by the assessor, and reapplication must be made as a condition to the hearing of the appeal.*

[Emphasis supplied]

The administrative judge finds that the assessor is correct insofar as greenbelt applications must normally be filed by March 1. However, the administrative judge finds that the highlighted language above makes clear that new owners who fail to reapply by March 1 may still qualify to continue a previous greenbelt classification by appealing to the

¹ Although the appeal form was not received until August 5, 2005, the administrative judge finds that the postmark date of August 3, 2005 constitutes the filing date pursuant to Tenn. Code Ann. § 67-1-107.

county board of equalization and filing a new greenbelt application. The administrative judge finds that this is exactly what the taxpayer did.

The administrative judge finds it unnecessary to determine whether or not the taxpayer was a “new owner” under the statute. The administrative judge finds that even if it is assumed *arguendo* that the taxpayer was a “new owner” under the statute, the taxpayer is entitled to retain the previous greenbelt classification because he filed an appeal to the Blount County Board of Equalization and filed a new green belt application.

ORDER

It is therefore ORDERED that subject property continue to receive preferential assessment under the greenbelt program [Tenn. Code Ann. § 67-5-1001, et seq.] and the rollback taxes levied on March 24, 2005 are hereby set aside.

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 10th day of March, 2006.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Martha S.L. Black, Esq.
Mike Morton, Assessor of Property